THE HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.16429 of 2006

Date : 4-8-2006

Between:

M.Srinivas Prasad s/o.Dr.M.Satyanarayana .. Petitioner

And

Municipal Corporation of Hyderabad, represented by its Commissioner. .. Respondent

THE HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.16429 of 2006

ORDER:

1. The Writ Petition is filed for a Writ of Mandamus declaring the action of respondent-Corporation and its officers in threatening the petitioner and trying to demolish the building in plot No.564-A-22-III, Road No.92, Jubilee Hills, Hyderabad in violation of the orders of the Court and also in violation of the provisions of Hyderabad Municipal Corporation Act as illegal, arbitrary, unconstitutional, opposed to Articles 14 and 21 of the Constitution of India and contrary to the principles of natural justice and to pass such other suitable orders.

2. It is stated that Sri M.P. Chary was the owner of plot No.564-A-22-III, Road No.92, Jubilee Hills, Hyderabad and Sri M.P. Chary applied for construction of the building. The respondent-Corporation had granted permission vide permit No.100/26, dated 20-11-2004. It is also stated that the plot is facing K.B.R. Park and 100 feet road on the North side. It is further stated that Sri chary started construction as per the sanctioned plan, but however as the plot is in a valley similar to the number of plots in Jubilee Hills and Banjara Hills and Prashashan Nagar, cellars were constructed to bring the building to the road level so that the

three floors permitted by the respondent-Corporation can be built. At that time the officers and workmen of the respondent-Corporation had come and threatened the construction workers and also tried to demolish the building. In such circumstances, Sri M.P.Chary filed O.S.No.2609/2005 and I.A.No.491/2005 on the file of IV Assistant Judge, City Civil Court, Hyderabad and obtained injunction against the respondent-Corporation. Subsequently Sri M.P. Chary had sold away the land and the building by registered sale deeds dated 30-4-2005 in favour of the writ petitioner and unfortunately a few months thereafter Sri Chary untimely died. The petitioner therefore filed an application in the suit to bring him as the legal representative of late Sri M.P. Chary. The trial Court granted time to the respondent for filing counter and adjourned the matter. However the trial Court did not pass any orders extending the injunction orders. Aggrieved by the same the petitioner filed C.M.A.No.99/2006 and the learned II Additional Chief Judge, City Civil Court, Hyderabad was pleased to admit the Appeal and granted interim orders in I.A.No.1283/2006 as follows:

> "Upon the hearing the arguments of the said Advocate for the petitioner and upon perusing the petition and aforesaid filed in support thereof and the material available on record this Court doth order issue urgent notice to the respondents. In the meanwhile respondents are directed to maintain status-quo over the petition schedule property till

disposal of the C.M.A."

It is also stated that the above said order was passed on 21-4-2006 and is still in force. A copy of the said order was communicated to the respondent. In spite of the same, the respondent had made a paper publication in various news papers on 20-7-2006 stating that Sri M.P. Chary is the owner and he had constructed building in violation of the Rules. The said notification deals with seven buildings and informs the public not to purchase the said buildings or flats. It is further stated that the Officers of the respondent-Corporation are coming to the building and threatening the security staff orally that they would demolish the building. Several other factual details also had been narrated. In the light of the same the Writ Petition had been thought of.

3. Several of the factual details narrated in the affidavit filed in support of the Writ Petition need not be dealt with. However, in the light of the facts and circumstances, inasmuch as the main grievance of the petitioner is that the petitioner was not put in any reasonable notice at all, it is needless to say that the respondent-Corporation cannot proceed with any demolition activity unless and until the due process of law is followed.

4. In view of the same, the Writ Petition is disposed of directing the respondent not to resort to any demolition activity unless and until the due process of law is followed. With the above direction the Writ Petition is disposed of. No

order as to costs.

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Justice P.S. Narayana

Date : 4-8-2006

AM